



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA
ex rel. RODNEY J. REPKO,

Plaintiff,

- against -

GUTHRIE HEALTHCARE SYSTEM,
GUTHRIE CLINIC, LTD. (aka GUTHRIE
MEDICAL GROUP, P.C.), GUTHRIE
HEALTH (aka "The Guthrie Clinic"),
ROBERT PACKER HOSPITAL,
CORNING HOSPITAL,
PRICEWATERHOUSECOOPERS LLP,
MARK STENSAGER, TERENCE
DEVINE, M.D., THE GUTHRIE CLINIC,
JOHN DOE, M.D.,

Defendants.

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STIPULATION AND ORDER

FILED UNDER SEAL

Civil Action No.
17-CV-6091

A handwritten signature in blue ink, appearing to be "JJD", written over the "FILED UNDER SEAL" stamp.

(Dearie, J)

WHEREAS, on or about October 2, 2017, Rodney J. Repko (the "Relator") filed the above-referenced action, in which Relator asserted claims on behalf of the United States pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729 *et seq.*;

WHEREAS, in accordance with 31 U.S.C. § 3730(b), Relator's complaint was sealed for a period of at least sixty days from the date of filing;

WHEREAS, on or about December 27, 2017, Relator filed an Amended Complaint, which he served on the United States;

WHEREAS, the defendants in this case have not been served with the Amended Complaint in this action, and thus have not filed an Answer;

WHEREAS, while the United States has not yet filed its determination as to whether it will seek to intervene in this action, Relator, through his counsel, has informed the United States that he seeks to dismiss his complaint against the defendant without prejudice;

WHEREAS, the United States does not object to this case being dismissed without prejudice;

WHEREAS, the United States generally requests that a Relator's complaint be unsealed at the conclusion of a case such as this, but that all other papers on file remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the purpose of evaluating whether the seal and time for making an election to intervene should be extended;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED between Relator's counsel and the undersigned counsel for the United States that:

1. Relator's Amended Complaint, and any and all claims contained therein against the defendants in that complaint, is hereby dismissed without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

2. The United States does not object to this action being dismissed without prejudice.

3. The docket shall reflect that the complaint was dismissed without prejudice and Relator's complaint shall be unsealed, but all other documents on file in this case shall remain sealed. Any documents filed with the Court after the date of this Order shall not be filed under seal.

4. The Clerk of the Court shall provide the United States Attorney's Office,

Eastern District of New York, 271 Cadman Plaza, Brooklyn, New York 11201, Attn: AUSA

Abell with a copy of this fully executed order.

Dated: Brooklyn, New York
July 9, 2018

RICHARD P. DONOGHUE
United States Attorney
Eastern District of New York
271 Cadman Plaza East, 7th Floor
Brooklyn, New York 11201

By: /s/ Kenneth M. Abell
KENNETH M. ABELL
Assistant U.S. Attorney
(718) 254-6291

Dated: Montgomery, Alabama
July 9, 2018

FULLER, TAYLOR & HOLTON P.C.
5748 Carmichael Parkway, Suite D
Montgomery, Alabama 36117

By: /s/ William H. Fuller
William H. Fuller
Michael Guy Holton
Attorneys for Relator
(334) 244-0447

SO ORDERED:

Dated: Brooklyn, New York
July 9, 2018

s/Raymond J. Dearie

THE HONORABLE RAYMOND J. DEARIE
UNITED STATES DISTRICT JUDGE, E.D.N.Y.